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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/817,054	03/27/2001	Jeffrey Paul Grundvig	20-149	9186

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Washington, DC 20036-3307

EXAMINER

PHILPOTT, JUSTIN M

ART UNIT	PAPER NUMBER
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2665

DATE MAILED: 02/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/817,054

Applicant(s)

GRUNDVIG ET AL.

Examiner

Justin M. Philpott

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 December 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 and 5-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 6-13, 15 and 16 is/are allowed.
- 6) ☒ Claim(s) 1-3 and 5 is/are rejected.
- 7) ☒ Claim(s) 14 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on November 23, 2005 has been entered.

Response to Arguments

2. Applicant's arguments filed November 23, 2005 have been fully considered but they are not persuasive. Specifically, applicant argues that Kojima does not disclose the newly added claim limitation of "as transmitted". However, as discussed further in the following action, Kojima clearly teaches such a limitation (see col. 6, lines 40-43 regarding transmitting from station 1, and also see col. 7, lines 50-62 regarding outputting the synchronous words to units 30 and 50 via controllers 17c and 18c which is inherently a transmission). Thus, applicant's argument is not persuasive.

Claim Objections

3. Claim 14 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the

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claim(s) in independent form. Specifically, the limitation recited in dependent claim 14 is already present in independent claim 6 at lines 3-4. Thus, claim 14 does not further limit claim 6 and is of improper dependent form.

Claim Rejections - 35 USC § 101

4. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

5. Regarding claims 1-3 and 5, the claimed invention is directed to non-statutory subject matter. Specifically, while the preamble of claim 1 recites “a system”, the remainder of the claim fails to include any concrete elements which could distinguish the claim as either a machine, manufacture, or composition of matter, or any new and useful improvement thereof. Furthermore, as a “system”, the claim also is clearly not a process claim. Thus, the claim is directed to non-statutory subject matter since it fails to recite a claim which is a new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, as required by 35 U.S.C. 101. Claims 2, 3 and 5 suffer from the same deficiency as claim 1 and are therefore rejected for the same reason discussed above regarding claim 1.

6. Claims 1-3 and 5 are also rejected under 35 U.S.C. 101 because the claimed invention is not supported by either an asserted utility or a well established utility.

Claim Rejections - 35 USC § 112

7. The following is a quotation of the first paragraph of 35 U.S.C. 112:

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The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

8. Claims 1-3 and 5 are rejected under 35 U.S.C. 112, first paragraph. Specifically, since the claimed invention is not supported by either an asserted utility or a well established utility for the reasons set forth above, one skilled in the art clearly would not know how to use the claimed invention.

Claim Rejections - 35 USC § 102

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

10. Claims 1-3 and 5 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,886,999 to Kojima et al.

Regarding claim 1, Kojima teaches a system using a data format (e.g., see col. 4, line 38 – col. 12, line 41), comprising: a transmitted plurality of time slot based data frames (e.g., SWV/VDT, SWA/ADT, and SWM/MDT, see FIG. 4) (see also col. 6, lines 40-43 regarding transmitting from station 1, and also see col. 7, lines 50-62 regarding outputting the synchronous words to units 30 and 50 via controllers 17c and 18c which is inherently a transmission); less than all but more than one (e.g., audio and other media remain, but video signal SWV/VDT is stopped, see col. 10, lines 31-39; see also col. 6, line 39 – col. 7, line 27 regarding one or more synchronous words are not detected) of the plurality of time slot based data frames, as

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transmitted (e.g., see col. 7, lines 50-62 regarding outputting the synchronous words without stop signal SPC or the undetected words corresponding to the stop signal; see also col. 6, line 40 – col. 8, line 55), including a sync word (e.g., SWV/VDT comprising sync word SWV, SWA/ADT comprising sync word SWA, and SWM/MDT comprising sync word SWM); wherein at least two adjacent ones of the plurality of time slot based data frames, as transmitted, do not include a sync word (e.g., see col. 6, line 39 – col. 7, line 27 regarding an instance where a plurality of predetermined number of synchronous words are not detected in a predetermined period, and see col. 7, lines 50-62 regarding outputting the synchronous words without stop signal SPC or the undetected words corresponding to the stop signal; see also col. 6, line 40 – col. 8, line 55).

Regarding claim 2, Kojima teaches the time slot based data frames are TDMA frames (e.g., see col. 1, lines 53-67 regarding TDMA).

Regarding claim 3, Kojima teaches the sync word is included at the beginning of the less than all of the transmitted plurality of time slot based data frames (e.g., see FIG. 4 wherein sync words are included prior to the data).

Regarding claim 5, Kojima teaches the at least two adjacent ones of the plurality of time slot based data frames include data payload in a position containing the sync word in the less than all of the transmitted plurality of time slot based data frames (e.g., see FIG. 4 regarding data in each of the data frames within DT).

Allowable Subject Matter

11. Claims 6-13, 15 and 16 are allowed.

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12. The following is an examiner's statement of reasons for allowance: claims 6-13, 15 and 16 were allowed in a previous office action (mailed April 13, 2005) by Examiner Kenneth N Vanderpuye, and these claims are herein allowed for the same reasons as previously determined.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Justin M. Philpott whose telephone number is 571.272.3162. The examiner can normally be reached on M-F, 9:00am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Huy D. Vu can be reached on 571.272.3155. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Justin M Philpott



**ALPUS H. HSU
PRIMARY EXAMINER**